v. *McClung*, 172 U. S. 239, 176 U. S. 59; *Belfast Savings Bank* v. *Stowe*, 92 Fed. Rep 100.

The question, as to assignments within the United States, loses much of its practical importance under the national bankruptcy act; for an assignment for the benefit of creditors is an act of bankruptcy and affords a basis for proceedings in bankruptcy, which involve all the bankrupt's property throughout the country, and nullify an assignment of less than four months' standing.

LIABILITY TO USERS OF ELECTRICITY OF ONE NEGLIGENTLY BREAKING THE CONDUCTING WIRES. — This, broadly, is the subject of an article criticising a recent case. *Liability for Breaking Electric Wires*, Anon., 10 Case & Com. 63 (Nov., 1903). In the case in question a building contractor undermined a sidewalk in violation of a local ordinance, and negligently broke wires in an underground conduit. These wires belonged to a company that was under a contract with a publishing company to supply electricity for power and light, subject, however, to accidental interruptions. The Supreme Court of Georgia denied the publishing company recovery in tort against the contractor, on the ground that its damage resulted only from the non-performance of a contract by a third party, and that the only damage proximately caused by the defendant was the injury to the property of the electric company. *Byrd* v. *English*, 117 Ga. 191. This reasoning the above article shows to be fallacious, since the plaintiff's rights did not arise from a breach of contract, because there was no breach, and since the plaintiff's damage was a direct and immediate result of the defendant's act. The writer argues that just as the proprietor of a store may have an action when access to his place of business is unlawfully cut off; or a mill owner, when his easement or license of a water-channel is wrongfully interfered with on the servient land by a third party, so in the principal case an action should lie for a direct interruption of the plaintiff's lawful business by the defendant's tortious act, without regard to the ownership of the immediate property injured.

This article, as most cases on the subject — to the confusion of lawyers and possibly of some courts — does not expressly distinguish between the question of legal cause and the question of the existence of a duty. In the case discussed the plaintiff's damage was unquestionably the direct and proximate result of the defendant's conduct. The exact point at issue is whether the defendant owed a duty of care not only to the owner of the wire, but also to all persons using the current. To determine when a duty exists is a problem frequently as difficult as it is important, and in each case it would seem to be a mixed question of law and of fact. The cases of easements and access to property, relied upon by the writer, all involve recognized property rights, and so are not helpful. A broader principle is involved here: whether as a general rule a defendant who admittedly has a legal duty of care to one party, has not also a similar duty to any other person or class of persons whom he knows, or, as an average reasonable man, should know, will almost inevitably suffer palpable damage as a direct result of the act which constituted the breach of duty to the first party. Such a rule would give a desirable result in the principal case, is in accordance with the conclusion of the article, and is believed to be wise, and in line with the weight of authority. A case closely in point is where a fire in the plaintiff's buildings would very probably have been extinguished by a volunteer fire company from a neighboring town. The defendant railroad was held liable for the loss of the buildings caused by its negligence in running over and cutting the hose which had been laid across its tracks. *Metallic Compression Casting Co.* v. *Fitchburg R. Co.*, 109 Mass. 277. See *Mott* v. *Hudson River R. Co.*, 8 Bosw. 345, 1 Robt. (N. Y.) 585. *Cf. Kahl* v. *Love*, 37 N. J. Law 5. This principle also appears where the defendant by an act constituting a breach of duty to one party makes more difficult the performance of a contract binding on the plaintiff. *Cue* v. *Breeland*, 78 Miss. 864. Compare, however, the following cases where the facts did not meet the exact requirements of the above rule and recovery was denied.

Dale v. *Grant*, 34 N. J. Law 142; *Anthony* v. *Slaid*, 52 Mass. 290. This principle would seem to be helpful also where the defendant's duty, if any, to the plaintiff depends upon the defendant's performance or non-performance of a contract with a third party. *Pittsfield Cottonwear Mfg. Co.* v. *Pittsfield Shoe Co.*, 71 N. H. 522. In numerous cases where property was damaged by fire, the owner was denied recovery in tort against the water company for failure to maintain in its pipes the pressure required by contract with the municipality. *Boston Safe-Deposit and Trust Co.* v. *Salem Water Co.*, 94 Fed. Rep. 238. This view seems sound, since the defendant could not have foreseen this damage as the almost inevitable result of his breach of contract.

THE HISTORY AND THEORY OF THE LAW OF DEFAMATION. — A scholarly and interesting treatise on this subject by Mr. Van Vechten Veeder is begun in 3 Columbia L. Rev. 546 (Dec. 1903). In early times reputation was amply protected by the seignorial and ecclesiastical courts; but with the decay of the former and the discontent with the procedure and remedies of the latter, the writer shows that the growing jurisdiction of the king's courts came to be extended to defamation. Sitting in the "starred chamber," the king's council also exercised a jurisdiction, limited to the aristocracy, over the statutory offense known as De Scandalis Magnatum, which was directed at first chiefly against sedition and turbulence, but which by the time of Elizabeth extended to non-political defamation. It was at this time also, says the writer, that the king's courts acquired a considerable bulk of litigation in defamation, and formulated the rules which, though then applied alike to written and oral words, came to be applied exclusively to oral defamation. These rules, really in the form of exceptions to unbridled license of speech, depended either on the nature or substance of the imputation, for example, a charge of crime; or on the consequences of the imputation, that is, special damage. The invention of printing, with its consequent spread of reading and writing, brought new dangers to the absolute monarchy; censorship of the press became part of the royal prerogative. The Star Chamber undertook jurisdiction over this alarming form of scandal. Unfettered by rules, it boldly borrowed from the Roman criminal law, but with important modifications and additions of its own, particularly the fundamental principle that libel is punishable as a crime because it tends to a breach of the peace. After the abolition of the Star Chamber the power of censorship steadily waned, and there grew up in the common law, to restrain non-political, non-criminal libel, the civil doctrine of libel, "that although words 'spoken once' would not be actionable, 'yet they being writ and published' became actionable." The writer examines the reasons usually advanced for the common law distinctions which in time came to be established between libel and slander, and comes to the sound conclusion that "an actionable test may be rationally based upon the character of the publication, perhaps upon the motive with which it was published, but not upon its form."

THE NORTHERN SECURITIES CASE. — Professor Langdell's attack on the Merger decision in 16 HARV. L. REV. 539 has elicited a spirited answer from ex-Governor Chamberlain of South Carolina. *The Northern Securities Case; a Reply to Professor Langdell*, by Daniel H. Chamberlain, 13 Yale L. J. 57. The author is no less outspoken in his approval of the decision than was the article which he attacks in its denunciation. Far from being a thoroughly "iniquitous decree," he pronounces it "a beacon marking a great victory in the struggle of justice" and "absolutely dictated and compelled" by the three previous decisions of the Supreme Court, relied on by the Circuit Court of Appeals, viz., *U. S.* v. *Trans-Missouri Freight Association*, 166 U. S. 290; *U. S.* v. *Joint Traffic Association*, 171 U. S. 505; and *Addystone Pipe and Steel Co.* v. *U. S.*, 175 U. S. 211.